

§ 12.308

protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

§ 12.308 Agency review.

(a) Either the applicant or the NRC counsel may seek review of the initial decision on the fee application, or the Commission may decide to review the decision on its own initiative, in accordance with the Commission's review procedures set out in 10 CFR 2.341. The filing of a petition for review is mandatory for a party to exhaust its administrative remedies before seeking judicial review. If neither the applicant nor NRC counsel seeks review and the Commission does not take review on its own initiative, the initial decision on the application shall become a final decision of the NRC 120 days after it is issued.

(b) Notwithstanding anything to the contrary in any other part of the Commission's regulations, the initial decision shall be inoperative (*i.e.*, the decision shall not be final and any award made shall not be paid) until the later of—

(1) The expiration of the 120 day period provided in paragraph (a) of this section; or

(2) If within the 120 day period provided in paragraph (a) of this section the Commission elects to review the decision, the Commission's issuance of a final decision on review of the initial decision.

(c) Whether to review a decision on its own motion is a matter within the discretion of the Commission. If review is taken, the Commission will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

[59 FR 23121, May 5, 1994, as amended at 77 FR 46599, Aug. 3, 2012]

§ 12.309 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

10 CFR Ch. I (1–15 Edition)

§ 12.310 Payment of award.

An applicant seeking payment of an award shall submit to the appropriate official of the paying agency a copy of the Commission's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts. Where the award is granted against the Commission, the applicant shall make the submission to the Director, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555. The NRC will pay the amount awarded to the applicant within 60 days.

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